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FROM DIRECTORS OFFICE

OCT 31 2005

TECHNOLOGY CENTER 3600

Dr. Max Fogiel  
44 Maple Court  
Highland Park, NJ 08904

In re Application of :  
Antonio Jose de Araujo Porto et al : DECISION ON PETITION  
Application No. 09/837,951 : TO WITHDRAW THE  
Filed: April 19, 2001 : HOLDING OF ABANDONMENT  
For: METHOD OF MANUFACTURING  
PISTONS AND COMPONENTS  
THEREOF, AND FORGING TOOLS

This is in response to applicants' petition to withdraw the holding of abandonment filed February 7, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that a Non-Final Office action was mailed to applicants on June 9, 2004. Applicants, on June 7, 2004, filed a change of address with the Office which was received on the same day as the mailing of the Office action. Subsequently applicants never received the Non-Final Office action of June 9, 2004. Since a response was not received before the expiration of the six-month statutory period for reply of the Non-Final Office action of June 9, 2004, the application was held abandoned, and a Notice to that effect was mailed on January 11, 2005.

Applicants' petition asserts that the Office action mailed June 9, 2004 was not received.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Service, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.


The docket records indicated above must include a copy of the list of all responses in the practitioner's office to which the action was properly sent with the due date at and around September 9, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993).

The Petition includes a statement that the above-noted Office action was not received. The Petition also includes a statement that a search of the file jacket and docket records indicates that the Office action was not received. Applicants' petition provides a copy of the contents of the application file showing where such action would have been entered had it been received.

Applicants' Petition has failed to comply with requirement (3) indicated above. Applicants' Petition has not provided a complete docket record with a copy of the list of all responses in the practitioner's office to which the action was sent with the due date at and around September 9, 2004.

Applicants' evidence of non-receipt of the Office action mailed June 9, 2004 is insufficient to withdraw the holding of abandonment, and the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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RAR/bkg: 10/28/05